



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MAP/172035

PRELIMINARY RECITALS

Pursuant to a petition filed February 15, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Waukesha County Health and Human Services in regard to Medical Assistance, a hearing was held on April 19, 2016, at Waukesha, Wisconsin.

The issue for determination is (1) whether the agency correctly determined that the petitioner was eligible for MAPP with a monthly premium in the amount of \$725 effective March 1, 2016, and (2) whether the agency correctly discontinued the petitioner's MAPP benefits effective April 1, 2016 for failing to pay her MAPP premium.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Waukesha County Health and Human Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Waukesha County. She is the only person in her elderly, blind, or disabled household.

2. The petitioner's monthly income \$1,561.09 consisting of \$1301 from social security and \$260.09 from two pensions.
3. On January 26, 2016 the agency sent the petitioner a notice stating that she was eligible for MAPP with a monthly premium in the amount of \$725.
4. On February 15, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.
5. On March 18, 2016 the agency sent the petitioner a notice stating that her MAPP benefits were ending effective April 1, 2016 because the petitioner had failed to pay her MAPP premium.

DISCUSSION

Prior to April 1, 2016 the petitioner received benefits under the Medical Assistance Purchase Plan (MAPP). MAPP allows disabled persons to work and receive medical assistance if their income falls below 250% of the federal poverty level after excluding those amounts found in 42 USC 1382a (b). Wis. Stat. § 49.472(3)(a). Those whose income exceeds 150% of the federal poverty level, whether earned or unearned, must pay a premium. Wis. Stat. § 49.472(4)(b). *Medicaid Eligibility Handbook (MEH)*, § 26.5.1. 150% FPL for a household size of one is \$1,471.25 effective March 1, 2016. *MEH*, § 39.5 That premium is 3½% of all earned income, but 100% of unearned income remaining after deducting \$20 plus an amount equal to state and federal SSI payments, which is currently \$836. Wis. Stat. § 49.472(4)(a)1; *MEH*, § 39.4.2. This combined deduction is known as the standard living allowance.

The problem for the petitioner is that once a recipient's income crosses the 150% of the federal-poverty-level threshold, an immediate large premium can result. This is especially true if much of the income is unearned. The premiums are not incurred gradually.

The petitioner began receiving additional pension income, which increased her income above 150% FPL. She receives social security in the amount of \$1,301. She has her own pension from [REDACTED] in the amount of \$104.21. Recently she began receiving a [REDACTED] pension, from an ex-husband's employment, in the amount of \$155.88. This \$155.88 put the petitioner over 150% FPL, which put her in the MAPP premium category. Because her income is all unearned income, the petitioner has a \$725 MAPP premium. I have reviewed the agency's calculations of this premium, and those calculations are correct.

The petitioner argued that her pension payments are not income. The petitioner testified that the pension payments were defined benefit plans, and thus excluded as income. This is a mischaracterization of her pension income and a misreading of the rules and regulations. The Medicaid regulations and policies direct the agency to count all unearned income as income in the month it is received. *MEH*, § 15.4. The policy and regulations go on to include retirement benefits as unearned income. *MEH*, § 15.4.4. The manual states:

Retirement benefits include work-related plans for providing income when employment ends.
Examples of retirement benefits include:

- Pension disability or retirement plans administered by an employer or union
- Accounts owned by the individual, such as *IRA* s
- Plans for self-employed individuals, sometimes referred to as Keogh plans.

Periodic payments made from a work-related retirement benefit plan should be counted as income in the month of receipt.

Id. Based upon the above regulation and policy, the agency properly included the petitioner's monthly pension payments as income.

If the petitioner was correct, and her pension payments were not to be included as income, then those plans would be considered assets. The asset limit for this program, for a household size of 1, is \$15,000. *MEH*, § 32.6. Given that the petitioner receives \$260.09 per month for the remainder of her life, were these plans to be counted as assets, she would be ineligible for MAPP because she would be over the program asset limit.

Failure to pay a premium results in the MAPP program eligibility being terminated for six months. *MEH*, § 26.5.6. However, if the person had good cause for failing to pay the premium the restricted enrollment can be reversed if she pays past due premiums. *Id.*

In this case there is no dispute that the petitioner failed to pay her MAPP premium. The petitioner disagreed with the amount, and stated that she did not have enough money to pay the premium. This is likely true given that the petitioner's monthly rent for her small hotel style apartment is \$890. She also pays \$30 for a phone. These premium amounts are set by statute and regulation. Although the petitioner has other expenses that are high, without paying her premium, she is ineligible for the MAPP program.

CONCLUSIONS OF LAW

- (1) The agency correctly determined that the petitioner was eligible for MAPP with a monthly premium in the amount of \$725 effective March 1, 2016.
- (2) The agency correctly discontinued the petitioner's MAPP benefits effective April 1, 2016 for failing to pay her MAPP premium.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in

this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 5th day of May, 2016

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 5, 2016.

Waukesha County Health and Human Services
Division of Health Care Access and Accountability